

SECOM-D-074

5 February 1980

STATINTL

MEMORANDUM FOR:

[Redacted]
Legal Adviser APEX Steering Group

FROM:

[Redacted]
Security Adviser APEX Steering Group

SUBJECT:

Charter Legislation, Title VI
National Security Agency

STATINTL

1. I see potential most serious problems for the concept of the APEX single special access control program for sensitive intelligence in the current wording of the NSA proposed charter legislation, Title VI, paragraph 613 (b). It makes it the duty of the DIRNSA to prescribe and enforce for the U.S. Signals Intelligence System... "Government security rules, regulations, procedures, standards, and requirements with respect to personnel security clearances, authorization for access to facilities and information, physical security..." and the transmission, processing and reporting of information in order to protect signals intelligence from unauthorized disclosure.
2. There is some modification of this sweeping legislative proposal in that there is a statement that such rules, regulations, procedures, standards and requirements "shall be in accord with applicable law and with policy guidance (underscoring added) from the Director of Central Intelligence with respect to signals intelligence..."
3. I believe strongly that this does not reflect the spirit or letter of Executive branch previous pronouncements. "Policy guidance" is certainly weaker than E.O. 12036's requirement that the DCI will:

"Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling intelligence systems, information and products."

It is also incompatible with the 10 January 1980 PD/NSC-55 which says APEX will be implemented by the DCI as the NSC's Executive Agent. I think we all agree that the signals intelligence system falls within the purview of APEX.

4. I plan on mentioning this at the meeting of the APEX Steering Group today. I have already alerted Mr. Eisenbeiss to my concern and suggested he contact the DCI's General Counsel on this for clarification and redress as necessary.

5. I ask that you do whatever is necessary and proper to call attention to this in the right quarters and initiate corrective action by whatever means possible. Under no circumstances can the history of dealings with NSA support a claim that this type language poses no threat to the authorities of the DCI in terms of E.O. 12036 and the charter of PD/NSC-55. For my part, I will bring this to the immediate attention of the members of the Security Committee and will propose a concerted approach to the Hill committees on intelligence if corrective action cannot be obtained within the Executive Branch.

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SECOM-D-073

5 February 1980

MEMORANDUM FOR: Special Assistant to the DCI
for Compartmentation

FROM:

[REDACTED]
Security Adviser APEX

SUBJECT: Charter Legislation, Title VI
National Security Agency

1. I have just read paragraph 613 (b) of the proposed NSA Charter Legislation. It gives DIRNSA responsibility for prescribing and enforcing security rules, regulations procedures, etc., for the U.S. Signals Intelligence System.

2. The proposed legislation renders questionable the Presidential decision to place all compartmentation programs related to intelligence under the APEX Special Access Control System.

3. Hopefully, qualifying language can be worked out. I heard that weekend efforts by [REDACTED] OGC, were directed to this end. I am not sure that [REDACTED] is conversant with the APEX system or aware of the very serious conflicts this proposed legislation threatens.

4. I suggest you might want to contact Mr. Silver on this issue as soon as possible.

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